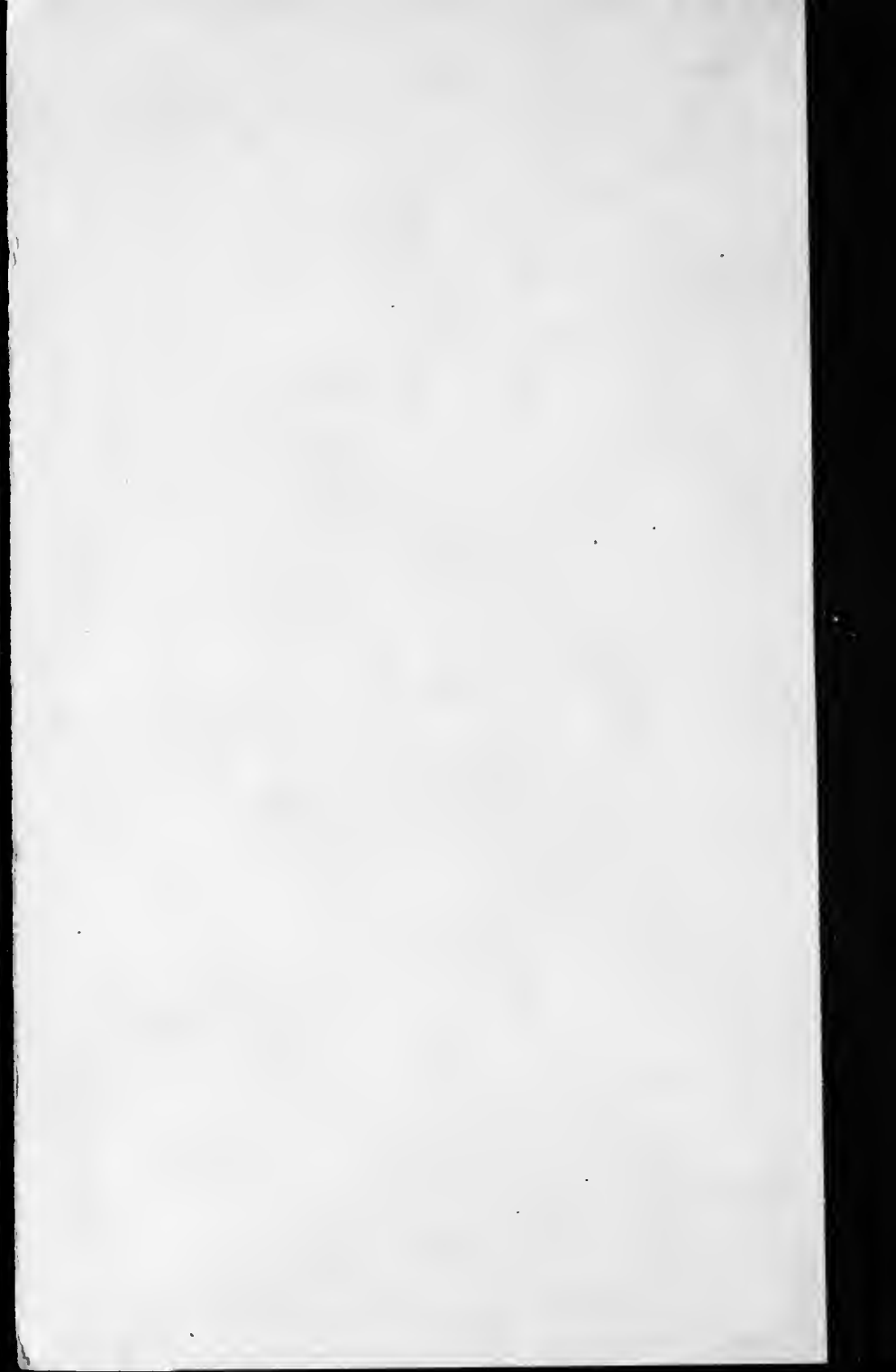


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# CONSTRUCTION

*The Building Contract is the Owner's Protection*

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THE SURETY ASSOCIATION OF AMERICA  
(Organized 1908)

60 John Street  
New York, N. Y.

C.3

*"We are proud of our part in the sound business relationship which has become established between the Corps of Engineers, the Nation's contractors, and the Surety Companies. We feel that it is eminently satisfactory, and we hope it will continue."*

*Brig. Gen. Peter A. Feringa, U. S. A.  
President — Mississippi River Commission*

### Other Publications of The Surety Association of America:

The Public Official and His Surety Bond

The Surety Bond in Court Proceedings

Economics of Suretyship }  
Surety Rate-Making } by Dr. Jules Backman

Fidelity Bonds — An Informative Review for Certified  
Public Accountants

Corporate Suretyship, the Balance Wheel of American  
Business

Catalogue of Publications on Corporate Suretyship

*January - 1950*

## FOREWORD

**I**N AN economy which has become increasingly complex, the corporate surety bond has assumed great importance by the substantial elimination of risk, thus making it a bulwark of support to American industry and finance. This is particularly true in building construction where such bonds protect all parties in interest and furnish to the private owner or public body, as well as the suppliers of labor and material, added assurance of successful performance and full payment of just claims.

The following pages set forth, clearly and objectively, helpful data concerning the nature, functions and advantages of construction bonds. This brochure is recommended reading for owners who contemplate building, for bankers who render financial assistance to builders and suppliers of material, and for all groups connected with the construction industry.

Edward H. Cushman

January 15, 1950

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(Mr. Cushman is a member of the Philadelphia Bar and has specialized in problems of the construction industry for over thirty years. He is the author of "The Law of Mechanics' Liens in Pennsylvania", many law review articles, and the chapters on "Bonds on Public Improvements" which since 1932 have appeared annually in the "Credit Manual of Commercial Laws" published by the National Association of Credit Men.)

# UNIVERSITY OF FLORIDA LIBRARIES



## *On the Cover...*

The forty-story Secretariat Building that will house the United Nations' Headquarters is covered by the largest amount of corporate suretyship ever arranged on a single contract — \$47,619,146. Towering above New York's East Side, as shown on the cover, the structure is being erected by the fourfold working team of Fuller-Turner-Walsh-Slattery, Inc.

# CONSTRUCTION

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## *The Bonded Contract is the Owner's Protection*

**S**PEARHEADING the expansion of the nation's building and engineering program is the construction industry, which has set impressive records of accomplishment and is constantly improving its techniques.

Its success formula is a combination of six factors:—Plans, capital, management, labor, material and performance. No construction project can succeed if any of these six is missing. An added factor, however, that has an important bearing on the outcome of many projects is the construction contract bond.

The importance of the role of the contract bond in construction lies in its positive guarantee that labor and material bills incurred in furthering the contract will be paid, and in its assurance that the contract will be fulfilled in accordance with plans and specifications. It is a business safeguard that has been given the acid test.

## *The Bond*

The construction contract bond is a simple instrument, a three party agreement between the principal (the contractor), the obligee (the owner), and the surety. Usually it covers whatever obligations the principal assumes in his contract. For practical purposes, surety companies now provide such coverage through the flexible method of two separate bonds. One bond assures performance of the contract; the other guarantees payment of all proper labor and material bills.

A prior requirement for many projects open to competitive bidding is the bid or proposal bond. This is furnished by each bidder, and it guarantees that the bid is bona fide, and that the bidder will enter into a contract if his proposal is accepted and will also furnish performance and payment bonds. (See Appendix A.)

## *The Owner*

The mainspring of all engineering and building construction is the promoter of the construction—the owner. He sets in motion the interrelated activities of architect and engineer, general contractor, subcontractors and suppliers. It is his capital that finances the project, and therefore his interests are paramount. He is also the party benefited most directly by construction contract bonds.

The bond gives the owner financial protection against default by the contractor, to make good on defective workmanship and other contract provisions, and through its guarantee of payment of labor and material bills, it eliminates the embarrassment, expense and legal entanglements caused by mechanics' liens.

The requirement of a bond is in no sense a reflection on the integrity, capacity or ability of the contractor. It is a reasonable business precaution. Contractors sometimes do fail to complete projects, despite character, resources, ability and experience, because of unexpected conditions which lead to default regardless of sincere intention to complete.

The basic purpose of the bond is the elimination of risk. In business ventures there is no such thing as absolute certainty, and their success is contingent upon unknown and unpredictable factors and hazards. The bond assures that a promise will be fulfilled and thus eliminates uncertainty. By requiring a corporate surety bond, therefore, the owner safeguards his own interests in a purely business fashion. Frequently contractors voluntarily offer to furnish bonds, aware of the advantages therein both to themselves and to the owners.

The bond premium, which is part of the construction cost, is moderate compared with the protection afforded, and for the average project it is never more than one per cent of the contract price. That is a small charge to pay for a bond that guarantees the owner against direct loss if the contractor is unable to complete his project.

Modern construction suretyship, under ideal practice, undertakes to screen out the unqualified, and to provide bonds for those who are entitled thereto. This service makes it possible for owners to secure maximum benefit from the savings pro-



duced by competitive bidding. In competitive bidding, the difference between the low bid and the next higher one is frequently many times the cost of the bond. But the combination of the lowest responsible bidder and a bond will assure a job in which the contract and specifications are fully met. The owner thereby saves the difference in cost between the low bid and the higher one.

As a matter of fact, the premium cost is frequently offset by economies effected all along the line. The payment bond gives subcontractors and suppliers a guarantee of payment for their materials, and therefore the contract may benefit from more favorable prices as well as larger and freer credit, since guaranteed credit always has that effect.

The bond has another function which the owner will instantly appreciate, for if the contractor fails to pay his labor and material bills, the suppliers of these commodities may file liens, or claims, against the owner's property. Such encumbrances cloud title to

*Private capital helped to alleviate the Nation's acute housing shortage through the construction of this and other huge developments. Here again was displayed the smoothly working combination of architect, contractor and surety that built from wasteland to man's castle. Shown below is the Marine Terrace development in Astoria, Long Island, N. Y.*



the property and interfere with its disposition until they are removed. The payment bond, with its guarantee of payment, eliminates this lien hazard.

Much of the foregoing applies with equal force to both private construction and public works. There is a sound philosophy behind the statutory and other legal requirements that public works contracts be bonded. The cost of claims and litigation; the delay resulting from reorganization and re-award of the work; and the need for protection of suppliers, are sufficient reasons why the public is unwilling to be its own guarantor of contract performance.

The *Engineering News-Record* appears to have summed up the case for contract bonds when it said editorially:

"Every reason of sound public conduct argues for the established system of bonded surety for contract performance. It is as unsound to have the owner guarantee a contractor's performance as it is for the contractor to guarantee the engineer's plans or the wisdom of the owner's investment."

The same reasoning applies to private construction contracts, and the analogy between the private owner and the public is again strikingly emphasized when the time comes to appropriate or to set aside funds for construction. Both the private owner and the public official, who is trustee of the public funds, can call for competitive bids. If the low bid is reasonable and is bonded, the basic cost of the project is determinable, and the budget can be set up accordingly, with no worry over the possibility that funds considered ample at the outset will run out before the contract is performed.

The public is protected through the statutory requirement of bonds on public works. Similar protection is available to private projects, as the following comments will demonstrate.

## *The Architect*

The architect performs a vital and indispensable service in the creative field of design and in supervising the work as it progresses.

In concurring in the employment of a contractor, he bases his judgment upon the contractor's past record and present standing.



*Strength, beauty and utility are elements of the vision born on the engineer's drafting board, such as the San Francisco-Oakland Bay Bridge. Another element of strength came from the contract bond that added further assurance of performance.*

The architect cannot always forecast accurately the future availability of labor and material, or the cost of either. And although there may appear to be no unusual risks in the contract, he cannot be certain ordinarily that such will also be true of other work being performed simultaneously by the contractor elsewhere.

Owners cannot be expected to understand all the technicalities of building construction, or the complex and interwoven relationships involved. They employ architects as their construction advisors and representatives, and it is usually through the architect that the owner deals with the contractor.

The architect knows that the cost of construction is not the sole means of determining value. Only through quality workmanship as well as design can the owner enjoy the low maintenance cost which is one test of satisfactory construction. And going a step further, if grade-A material is specified throughout

the job, the owner should receive the same grade of financial protection. In his design, the architect uses factors of safety to withstand stresses well above the assumed loadings, and he may properly suggest to the owner other protective measures against unexpected developments which might throw an unnecessary financial strain on his client.

This is partially taken care of by providing in the contract for fire, liability, and property damage insurance to protect the owner from loss during construction. The architect, aware that it is not outside the realm of possibility that the contractor may be unable to fulfill his contract, does a service to the owner by also recommending that a contract bond be required.

What is said here as to the architect relative to building construction applies also to the engineer on building or other construction when an engineer instead of an architect represents the owner.

## *The Contractor*

The distinctive function of the general contractor is to assume full centralized responsibility for the delivery of the structure or project in accordance with plans and specifications. He should be skilled in ordering, securing, assembling and placing the innumerable materials and devices required on a modern construction project. His function of scheduling and coordinating the work of subcontractors has become increasingly important because of the complexity of projects and the need for speed and economy in completing them.

All this the owner has a right to expect of his contractor. To be certain that it is forthcoming, the prudent owner will require performance and payment bonds together with the several forms of casualty and property insurance. In fairness to the contractor, at the same time, the owner should give assurance that he has sufficient finances available to pay the contractor for the work he is to perform in accordance with the terms of the contract.

The contractor deals in futures. He first sets the selling price and then endeavors to manufacture the product. His business, therefore, is a particularly hazardous one, and in order to succeed it is necessary for him to be careful, competent and resourceful. The risks of his profession are well known, and it is obvious that

loss to the contractor means potential loss to the owner; or if the contract is bonded, to the surety.

The loss records of surety companies disclose that the most common causes of failure among construction contractors are the following:

Unforeseen price rises; abnormal labor costs; death or disability of key men in the contractor's organization, or of the contractor himself; fire or other loss not adequately covered by insurance; weather or subsurface conditions which increase the cost but not the contract price; faulty credit judgment; sudden restriction or withdrawal of credit; unavailability of materials; failure of subcontractors; overextension beyond the contractor's administrative capacity or finances; speculation; misappropriation or other dishonesty on the part of the contractor's employees; a poor accident record; diversion of funds for one job to pay off accounts in arrears on other jobs.

These are common hazards in the construction industry, usually striking when and where least expected. That they are not an inconsiderable factor is shown by a study of experience tables, particularly during periods of either rising costs or falling prices, when the economy is off balance and occurrences ordinarily of no great consequence assume extraordinary importance.

Thus, in a period of rising costs, it is difficult to gauge the true level at which a profit may be made on a contract, with the price curve rising sharply meanwhile. On the other hand, during a period of falling prices volume usually falls off, competition becomes more severe, and the number of failures in the industry is proportionately greater.

Not the least among the causes of failure is the default of subcontractors. Subletting a portion of the contract is customary in many types of construction, but this does not relieve the general contractor of his obligation to do that portion of the work, since there is no privity of contract between the subcontractor and the owner. Many general contractors, fully aware of the value of contract bonds, require them regularly from subcontractors.

Contractors frequently encounter the need for additional working capital with which to process and complete a contract,



The rapidly swelling population of New York City's five boroughs has posed many traffic problems for engineers, but the Brooklyn - Battery Tunnel will ease one of them. Shown at left is the preliminary work of laying one of the giant caissons. Contracts let by the New York City Tunnel Authority for this project were bonded.

and it is usually at this point that the banker becomes an interested party in seeing the contract through to completion. The financing he provides and his counsel to the contractor are of material assistance in enabling the contract to be performed. This credit, naturally, is based primarily on integrity and ability, with of course reasonable capital, equipment, and experienced personnel, as well as the assurance that a surety company will guarantee the performance of the contract and the payment of labor and material bills.

As for the general contractor himself, the bond is his endorsement, his certificate of responsibility, and it is also an extension of credit by the surety. The requirement of a bond tends to eliminate the irresponsible or unqualified contractor, while at the same time the execution of a bond and its delivery to the contractor establish or confirm his credit standing.

## *The Subcontractor and Supplier*

Subcontractors and suppliers can ill afford to assume doubtful credit risks. It is their general practice to verify bond coverage, thereby indicating the importance they attach to this assurance of payment. Lacking such assurance, there remain in the event

of default only the slow and costly means of recovery afforded by highly technical lien statutes and other legal proceedings.

## *The Agent*

The producer who qualifies as a competent construction bonding agent expedites the matter of arranging for the corporate surety bond. Among his responsibilities are those of developing essential data for submission to the corporate surety and facilitating the necessary steps to negotiate the bond.

## *Liens*

A mechanics' or material men's lien is a statutory remedy, a charge upon real property for the satisfaction of a labor or material debt incurred during construction. Prior to the adoption of mechanics' lien laws, contractors, subcontractors, laborers and suppliers had no protection other than that afforded by the right to sue, obtain judgment and try to collect from the debtor.

While mechanics' lien laws differ in each state, they may be classified as falling into two patterns. One is known as the Pennsylvania system which allows the lien claimant a direct right against the land and improvement. Under the second pattern, termed the New York system, recovery on all lien claims is limited to the earned amount due the general contractor from the owner, and if the full contract price is paid before the lien is filed, the lien claimant can acquire no rights against the contractor.

These laws are beneficial to a degree since they provide a semblance of protection to creditors of the contractor. But the benefits are offset by many detriments, including delay; cost to owners and suppliers alike; legal expenses; the need for recording liens, renewals or cancellations in the public records; and other time and money consuming measures. Liens, in many jurisdictions, are paid in order of their priority, and available funds are not prorated among claimants. At best, then, lien laws are technical, cumbersome, and often unsatisfactory to all concerned.

Potential lien claimants in some states also may be deprived of their rights through inclusion in the general contract of a provision barring the filing of mechanics' liens. These covenants constitute a legal barrier to the exercise of lien rights.

Inconvenience, embarrassment and delay, as well as the owner's false sense of security created by such special covenants, may be eliminated by the requirement of payment bonds. These afford adequate protection to labor and material men directly engaged in furthering the contract. They also remove from owners the burden of expensive legal defenses.

## *Evolution of the Bond*

Contract bonds are no novelty in the construction industry. From the earliest days of American contract construction, they have been a familiar method of securing guarantees. But it was not until the passage by Congress of the Heard Act in 1894 that the employment of corporate suretyship was broadly accepted.

This act prescribed a single, combined performance and payment bond for Federal construction contracts. It was a long stride forward, but it was subject to the prior rights of the government, and the law was surrounded with technical and procedural difficulties.

To remedy these defects, the Miller Act requiring separate bonds — one assuring performance of the contract, the other guaranteeing payment of labor and material bills — was enacted by Congress in 1935, and now these bonds are prescribed for Federal construction contracts exceeding \$2,000 in amount. The dual bond statute has been proved by time and experience to be the best answer to the requirements of all parties. (See Appendixes D and E.)

## *Private Construction*

Generally, but with delayed emphasis, a comparable situation obtained on industrial, commercial and residential work, with a variety of forms of bonds used over the years, many of them failing to serve the purpose for which they were purchased.

The surety industry, accordingly, in cooperation with the American Institute of Architects, set to work to devise improved private construction bond coverage. In 1940, a draft was approved by the bonding companies, and the American Institute of Architects adopted it as a standard AIA form known as the Owner's Protective Bond.

Despite the evident superiority of the Owner's Protective



Bond over those which had preceded it in the private construction field, efforts to improve coverage and provide broader service continued. Convinced of the excellence and need of separate bonds for this field, the surety industry appointed a committee of underwriters which met with representatives of the American Institute of Architects, Associated General Contractors of America, New York Building Congress, National Association of Credit Men, and local credit organizations.

This cooperative study resulted in 1946 in separate performance and payment bonds which include all the protective features contained in those employed on Federal works under the Miller Act. The new bonds are so designed as to remove from private construction certain financial risks which the owner previously had been unable to avoid. (See Appendixes B and C.)

The new performance bond, for instance, provides that if the contractor defaults, the surety will step in promptly to complete the work in accordance with the contract provisions or to procure for the owner a contractor who will do so. Additional financing made essential by the default is sometimes provided by the surety within the limits of its guarantees in order to keep the job progressing.

*Hungry Horse Dam will be a key project in the Interior Department's program for developing the water resources of the Columbia River drainage basin. The artist's sketch shows how the dam and powerplant will look when they start to function on the South Fork of the Flathead River in northwest Montana. Performance and payment bonds were written on this contract.*



The new payment bond protects subcontractors and those who supply the general contractor and subcontractors, under direct contract, with labor and materials used or reasonably required for use in the performance of the contract, including water, gas, power, heat, light, oil, gasoline, telephone service, and rental of equipment directly applicable to the contract.

The force of the payment bond is not lessened by any loss under the performance bond, and suppliers and subcontractors working for the general contractor may serve the prescribed notice on the surety, and payment of proper claims follows as a matter of course.

## *Claims*

The ultimate test of corporate suretyship arrives when a claim is filed. Until then, the contract bond is a document containing written promises, redeemable when the contract for which the bond was furnished is breached by the contractor. When a default or loss occurs and a proper claim under the bond is made, the promises explicit in the bond must be fulfilled.

Sureties rightfully require fulfillment also of the provisions of the contract by all parties to the contract. At the same time, all well-managed surety companies desire to handle claim adjustments promptly and fairly, and in the vast majority of instances they succeed in doing so.

## *Summation*

The construction contract bond has ramifications that extend to every level and segment of the construction industry.

It protects the financial interests of the owner, sometimes producing savings and cost reduction.

It is an extension of credit to the general contractor, and it facilitates the performance of his contract.

It gives subcontractors and furnishers of labor and material a certainty of payment.

Through its assurance of contract performance it makes certain that a project once begun will be consummated according to the contract.

These tested and concrete benefits to all parties of a construction contract have given the contract bond its unique place in both the construction industry and our overall economy.

## BID BOND

KNOW ALL MEN BY THESE PRESENTS: THAT.....

(hereinafter called the Principal) and the.....

(hereinafter called the Surety) are held and firmly bound unto.....

.....(hereinafter called the Oblige)

in the full and just sum of..... Dollars  
good and lawful money of the United States of America, to the payment  
of which said sum of money, well and truly to be made and done, the said  
Principal binds himself, his heirs, executors, administrators, successors  
and assigns, and the said Surety binds itself, its successors and assigns,  
jointly and severally, firmly by these presents.

Signed, sealed and dated this.....day of....., A. D., 19.....

THE CONDITIONS OF THIS OBLIGATION ARE SUCH, that if any awards  
made, within sixty (60) days from the date of this instrument, by said  
Oblige, to the above bounden Principal under a public invitation for  
.....  
.....

*shall be accepted by said Principal and said Principal shall enter into  
a contract for the completion of said work, and give Bond with the*

*as surety, or with other surety or sureties to be approved by the Oblige  
for the faithful performance thereof*, then this obligation shall be null  
and void; otherwise to remain in full force and effect.

PROVIDED: *First*:—That the liability of the Surety shall in no event  
exceed the penalty of this bond.

*Second*:—That any suits at law or proceedings in equity  
brought or to be brought against said Surety to recover any claim here-  
under, must be instituted within six (6) months from the date of this  
instrument.

.....(Seal)  
*Principal*

.....(Seal)  
*Surety Company*

## PERFORMANCE BOND\*

(Private Construction)

KNOW ALL MEN BY THESE PRESENTS, THAT.....  
(Here insert name and address,

....., as Principal, hereinafter called  
or legal title, of the Contractor)

Contractor, and....., as Surety,  
(Here insert the legal title of Surety)

hereinafter called Surety, are held and firmly bound unto.....  
(Here insert the name

....., as Obligee, hereinafter called  
and address, or legal title, of the Owner)

Owner, in the amount of.....Dollars

(\$ ) for the payment whereof Contractor and Surety  
bind themselves, their heirs, executors, administrators, successors and  
assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated.....  
.....entered into a contract with Owner  
for.....

.....in accordance with drawings and specifications prepared by.....  
(Here insert full name

....., which contract is by reference  
and title)

made a part hereof, and is hereinafter referred to as the CONTRACT.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that,  
*if Contractor shall promptly and faithfully perform said CON-  
TRACT*, then this obligation shall be null and void; otherwise it shall  
remain in full force and effect.

Whenever Contractor shall be, and declared by Owner to be in  
default under the CONTRACT, the Owner having performed  
Owner's obligations thereunder, the Surety may promptly remedy the  
default, or shall promptly

- (1) Complete the CONTRACT in accordance with its terms and  
conditions, or
- (2) Obtain a bid or bids for submission to Owner for completing the  
CONTRACT in accordance with its terms and conditions, and  
upon determination by Owner and Surety of the lowest respon-

---

(\*Approved by the Executive Committee of The American Institute of Architects—August, 1946.)

sible bidder, arrange for a contract between such bidder and Owner and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the CONTRACT and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the CONTRACT falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the owner named herein or the heirs, executors, administrators or successors of Owner.

Signed and sealed this.....day of.....A. D. 195.....

*In presence of:*

.....(Seal)  
*Principal*

.....(Seal)  
*Surety Company*

# LABOR AND MATERIAL PAYMENT BOND\*

(Private Construction)

*NOTE: This bond is issued simultaneously with another bond in favor of the owner conditioned for the full and faithful performance of the contract.*

KNOW ALL MEN BY THESE PRESENT, THAT .....  
(Here insert name and address,

....., as Principal, hereinafter called  
or legal title, of the Contractor)

Principal, and ..... as Surety, hereinafter  
(Here insert the legal title of Surety)

called Surety, are held and firmly bound unto.....  
(Here insert the name and address,

....., as Oblige, hereinafter called Owner, for  
or legal title, of the Owner)

the use and benefit of claimants as hereinbelow defined, in the amount of  
..... Dollars (\$ .....), for

(Here insert a sum equal to one-half of the contract price)

the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated .....  
..... entered into a contract with Owner for.....

in accordance with drawings and specifications prepared by.....  
(Here insert full name

and title)  
....., which contract is by reference made a

part hereof, and is hereafter referred to as the CONTRACT.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal **shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract,** then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a sub-contractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the contract.

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(\*Approved by the Executive Committee of The American Institute of Architects—August, 1946.)

2. The above named Principal, and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant may sue on this bond for the use of such claimant in the name of the Owner, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon, provided, however, that the Owner shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant,

(a) Unless claimant shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

(b) After the expiration of one (1) year following the date on which Principal ceased work on said CONTRACT.

(c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this.....day of..... A. D. 195.....  
In the presence of:

.....(Seal)  
Principal

.....(Seal)  
Surety Company

## PERFORMANCE BOND

(FOR U. S. GOVERNMENT CONTRACTS)  
(Construction or Supply)

KNOW ALL MEN BY THESE PRESENTS, That we.....

.....  
as Principal, and.....

.....as Surety,  
are held and firmly bound unto the United States of America, hereinafter  
called the Government, in the penal sum of.....

.....Dollars  
(§ ) for the payment of which sum well and truly to be  
made, we bind ourselves, our heirs, executors, administrators, and suc-  
cessors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the  
Principal entered into a certain contract, hereto attached, with the  
Government, dated....., 19.....,  
for.....  
.....  
.....

Now, THEREFORE, if the Principal *shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Government*, with or without notice to the surety, and during the life of any guaranty required under the contract, and *shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of said contract that may hereafter be made*, notice of which modifications to the surety being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue.

*In witness whereof*, the above-bounden parties have executed this instrument under their several seals this.....day of....., 19....., the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.



*In presence of:*

..... (Seal)  
.....  
..... *Individual principal*

.....  
..... *Business address*

*Address*

*Attest:*

.....  
..... *Corporate principal*

.....  
..... *Business address*

..... By ..... [AFFIX CORPORATE SEAL]

*Attest:*

.....  
..... *Corporate surety*

.....  
..... *Business address*

..... By ..... [AFFIX CORPORATE SEAL]

The rate of premium on this bond is..... per thousand.

Total amount of premium charged, \$.....  
(The above must be filled in by corporate surety)

### CERTIFICATE AS TO CORPORATE PRINCIPAL

I....., certify that I am  
the..... secretary  
of the corporation named as principal in the within bond; that.....  
....., who  
signed the said bond on behalf of the principal, was then.....  
..... of said corporation; that I know his  
signature, and his signature thereto is genuine; and that said bond was  
duly signed, sealed, and attested for and in behalf of said corporation by  
authority of its governing body.

..... [CORPORATE SEAL]

## PAYMENT BOND

(FOR U. S. GOVERNMENT CONTRACTS)

(Construction)

*Pursuant to the Act of Congress, Approved August 24, 1935  
(49 Stat. 793; 40 U. S. Code 270a)*

KNOW ALL MEN BY THESE PRESENTS, That we .....

as Principal, and.....

.....as Surety,

are held and firmly bound unto the United States of America, hereinafter  
called the Government, in the penal sum of.....

.....Dollars

(§ ..... ) for the payment of which sum well and truly to be  
made, we bind ourselves, our heirs, executors, administrators, and suc-  
cessors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the  
Principal entered into a certain contract, hereto attached, with the  
Government, dated....., 19.....,  
for.....  
.....  
.....  
.....

NOW, THEREFORE, if the Principal *shall promptly make payment  
to all persons supplying labor and material in the prosecution of  
the work provided for in said contract, and any and all duly authorized  
modifications of said contract that may hereafter be made*, notice of  
which modifications to the surety being hereby waived, then this obliga-  
tion to be void; otherwise to remain in full force and virtue.

*In witness whereof*, the above-bounden parties have executed this  
instrument under their several seals this.....day of....., 19.....,  
the name and corporate seal of each corporate party being hereto affixed  
and these presents duly signed by its undersigned representative, pursuant  
to authority of its governing body.

presence of:

(Seal)

Individual principal

Address

Business address

Test:

Corporate principal

Business address

By

[AFFIX CORPORATE SEAL]

Test:

Corporate surety

Business address

By

[AFFIX CORPORATE SEAL]

The rate of premium on this bond is ..... per thousand.  
Total amount of premium charged, \$ .....

(The above must be filled in by corporate surety)

### CERTIFICATE AS TO CORPORATE PRINCIPAL

I ....., certify that I am  
..... secretary  
of the corporation named as principal in the within bond; that ....., who  
signed the said bond on behalf of the principal, was then .....  
..... of said corporation; that I know his  
signature, and his signature thereto is genuine; and that said bond was  
truly signed, sealed, and attested for and in behalf of said corporation by  
authority of its governing body.

[CORPORATE SEAL]



## Date Due

[illegible]

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S96/c  
C.2

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